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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 EMIL HERMAN HAAG,

12 Plaintiff,

13 v.

14 CITY OF LAKEWOOD, a municipal
15 corporation,

16 Defendant.
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No. C09-5060 KLS

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

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19 This matter is before the Court on the Defendant's Motion for Summary Judgment (Dkt. 22)
20 requesting dismissal of the Plaintiff's claims for his failure to (1) properly serve the City of Lakewood
21 and (2) file a Claim for Damages required by RCW 4.96 *et. seq.* prior to filing his Complaint. Mr. Haag
22 filed a late response (Dkt. 25). Three days prior to his filing a late response, the Defendant filed its Reply
23 (Dkt. 24). Based on the argument presented to the Court, the Defendant's motion to dismiss the
24 Plaintiff's claims is GRANTED for the reasons set forth below.

25 **UNDISPUTED FACTS**

26 **Service:** The City of Lakewood asserts that a copy of the Summons and Complaint was mailed to
27 the Lakewood Municipal Court which was received by that court on January 21, 2009. The Summons
28 and Complaint were subsequently forwarded to the City of Lakewood Legal Department. Dkt. 17. Mr.

1 Haag disputes this assertion by stating that he mailed the Summons and Complaint to the City of
2 Lakewood Legal Department and not to the Lakewood Municipal Court. This factual dispute is a
3 distinction without a difference. It is undisputed that the Plaintiff did not personally serve the City of
4 Lakewood with a copy of the Summons and Complaint.

5 **Claim for Damages:** While it is not clear, from the content of Mr. Haag's complaint, that he is
6 asserting a claim against the City of Lakewood, he has named the City as a defendant and has not named
7 any individuals as defendants.

8 It is undisputed that Mr. Haag did not file a Claim for Damages against the City of Lakewood,
9 prior to filing his Complaint, as required by RCW 4.96.020. Failure to comply with state law requires
10 dismissal of Plaintiff's claims, if any, against the City.

11 **Conclusion:** The Defendants' Motion for Summary Judgment (Dkt. 22) is hereby **GRANTED**
12 and all of the Plaintiff's claims against all the Defendants are here by **DISMISSED WITHOUT**
13 **PREJUDICE.**

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15 DATED this 28th day of July, 2009.

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18 Karen L. Strombom
19 United States Magistrate Judge
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